

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

STATE OF MISSISSIPPI, *et al.*,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as Secretary of Health and Human Services, *et al.*,

Defendants.

Civil Action No. 1:22-cv-00113-HSO-RPM

UNOPPOSED MOTION OF THE AMERICAN MEDICAL ASSOCIATION AND THE NATIONAL MEDICAL ASSOCIATION FOR LEAVE TO FILE A BRIEF AS *AMICI CURIAE* IN SUPPORT OF DEFENDANTS

The American Medical Association (“AMA”) and the National Medical Association (“NMA”) (collectively, “*Amici*”) respectfully move this Court for leave to file the brief, attached hereto as Exhibit 1, as *amici curiae* in support of Defendants’ opposition to Plaintiffs’ motion for summary judgment [78] and in support of Defendants’ cross-motion for summary judgment [90]. “The extent to which the court permits *amicus* briefing lies solely with the court’s discretion.” *Cazorla v. Koch Foods of Miss., LLC*, No. 3:11-cv-391, 2014 WL 2163151, at *3 (S.D. Miss. May 23, 2014) (internal quotation marks omitted). Plaintiffs and Defendants do not oppose this motion.

The AMA, founded in 1847, is the largest professional association of physicians, residents, and medical students in the United States. The NMA, established in 1895, is the nation’s largest professional and scientific organization of African American physicians. It represents more than 50,000 African American physicians and their patients. Together, *Amici* have long recognized that health is a foundational element of well-being and have committed to promoting health equity. *Amici* support CMS’s definition of “health equity” to mean (among other things) “[t]he attainment of the highest level of health for all people, where everyone has a fair and just opportunity to attain

their optimal health.” CMS, Health Equity, bit.ly/47bGQOu (modified Oct. 3, 2022); *see also* AMA, Advancing Health Equity: A Guide to Language, Narrative and Concepts 36 (2021). *Amici* have a strong interest in supporting health care regulation and guidance, including anti-racism plans, to address racial inequities in health care and health outcomes evident in medical and social science data.

Amici are uniquely qualified by their expertise and perspective as large membership organizations to present the views of the professional health care community and the relevant medical and scientific data to this Court regarding the incentive for anti-racism plans that Plaintiffs challenge in this lawsuit. A central issue in this litigation is whether anti-racism plans fall within the meaning of “clinical practice improvement activities” under the statute. Congress defined such an activity as one that “relevant eligible professional organizations and other relevant stakeholders”—like *Amici*—“identify as improving clinical practice or care delivery and that the Secretary determines, when effectively executed, is likely to result in improved outcomes.” 42 U.S.C. § 1395w-4(q)(2)(C)(v)(III). And Plaintiffs’ lawsuit expressly referenced *Amici*’s views on anti-racism plans. Am. Compl. [28] ¶ 56. Thus, *Amici*’s views regarding the impact of anti-racism plans on clinical practice, as set forth in the attached brief, are both germane and beneficial to the Court’s analysis in resolving this case.

CONCLUSION

For all of these reasons, *Amici* respectfully request leave to file the attached brief as *amici curiae* in support of Defendants.

Dated: August 4, 2023

Respectfully submitted,

s/ Will Bardwell

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